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SUBJECT: LAURENT D. KABILA ASSASSINATION TRIAL SCENESETTER

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CLASSIFIED BY: CLASSIFIED BY POLOFF LAURA ENGELBRECHT, REASONS 1.5 B & D

¶1. (C) SUMMARY: THE LONG-AWAITED TRIAL OF THE 116 SUSPECTS IN THE ASSASSINATION OF THE LATE PRESIDENT LAURENT DESIRE KABILA BEGAN ON THE MORNING OF APRIL 3. ON MARCH 20, THE GENERAL PROSECUTOR PUBLICLY READ THE CHARGES (IN THE PRESENCE OF THE DEFENDANTS, THEIR LAWYERS, AND THE PUBLIC) AT MAKALA PRISON. SEVERAL HIGH PROFILE DEFENDANTS (EDDY KAPEND, GENERAL YAV, RASHIDI'S WIDOW, THE MASASU GROUP) GENERATED THE MOST INTEREST. OF PARTICULAR INTEREST TO THE U.S., FORMER ANR CHIEF LETA MANGASA IS CHARGED WITH BEING IN SECRET CONTACT WITH THE CIA STATION CHIEF IN KINSHASA BETWEEN JULY 2000 AND JANUARY 16, 2001, IN ORDER TO "FAVOR UNDERTAKINGS OF THE (U.S.), NOTABLY SUPPORT TO REBEL FORCES AGAINST THE DRC." FROM A HUMAN RIGHTS AND DUE PROCESS PERSPECTIVE, THE LDK ASSASSINATION TRIAL IS DEEPLY FLAWED. NEVERTHELESS, THAT THE TRIAL IS FINALLY BEGINNING, IS AN IMPROVEMENT ON INDEFINITE INCARCERATION. SEPTEL WILL REPORT DEVELOPMENTS AS THE TRIAL PROGRESSES. END SUMMARY.

GENERAL INFO ABOUT THE CHARGES

¶2. (U) ON MARCH 20, GENERAL PROSECUTOR COLONEL CHARLES ALAMBA MUNGAKO FORMALLY PRESENTED WRITTEN CHARGES AGAINST 116 SUSPECTS WHO HAVE BEEN DETAINED FOR OVER A YEAR IN RELATION TO THE ASSASSINATION OF LAURENT DESIRE KABILA, (REPORTED REF A). (NOTE: THE COURT ANNOUNCED THERE WERE 135 DEFENDANTS, BUT HUMAN RIGHTS NGOS AND LAWYERS SAY THE LIST DUPLICATES SEVERAL PEOPLE, AND THEY BELIEVE THERE ARE ACTUALLY ONLY 116 INDIVIDUALS.) OF THE 116 DEFENDANTS, MOST ARE FROM THE MILITARY AND INTELLIGENCE SERVICES. AN NGO CONTACT COUNTED 16 CIVILIANS. THE TRIAL BEGINS APRIL 3 UNDER THE JURISDICTION OF THE MILITARY COURT (COM), WITH GENERAL NAWEL MUKONGO AS THE PRESIDING JUDGE ("PRESIDENT OF THE COURT"). AFTER BEING DETAINED OVER A YEAR WITHOUT ACCESS TO LAWYERS (ALTHOUGH THE GOVERNMENT HAS ALLOWED REGULAR INTERNATIONAL COMMITTEE OF THE RED CROSS VISITS), LAWYERS HAD ONLY TWO WEEKS TO PREPARE THEIR CASES.

¶3. (U) IN ROUGHLY HALF OF THE CASES, CHARGES WERE MADE ON AN INDIVIDUAL BASIS; THE REST OF THE DEFENDANTS WERE CHARGED IN A GROUP OF 40 AND A GROUP OF 19. IN GENERAL, THE CHARGES WERE QUITE REPETITIVE. SOME OF THE MOST COMMON WERE: 1) ABANDONMENT OF POST (FOR THE BODYGUARDS AND SOLDIERS), 2) PRIOR KNOWLEDGE OR FAILURE TO INFORM THE PRESIDENT OF A PLOT (ANR/NATIONAL INTELLIGENCE AGENCY FIGURES), 3) FACILITATION OF THE ESCAPE OF KEY DEFENDANTS, 4) KILLING OF ASSASSINATION SUSPECTS, AND 5) MEMBERSHIP IN THE MASASU GROUP (SEE PARA 5).

SOME OF THE KEY PLAYERS

¶4. (C) AS REPORTED IN REFTELS B AND C, THERE ARE SEVERAL THEORIES AS TO THE IDENTITY AND MOTIVATION OF LDK'S ASSASSINATION PLOTTERS. WITHOUT DELVING INTO THE VERACITY OF THESE THEORIES, THERE ARE SEVERAL KEY PLAYERS WHO WILL DOMINATE THE FOCUS OF THE TRIALS:

-- RASHIDI'S FAMILY: RASHIDI MIZELE ALLEGEDLY KILLED PRESIDENT KABILA, AND WAS ALLEGEDLY KILLED BY COLONEL EDDY KAPEND. RASHIDI'S WIFE, LADY NABINTU, WAS ARRESTED AND HAS

BEEN IN JAIL WITH HER CHILD (NOW 2 YEARS OLD, SHE HAD A SECOND CHILD WHILE IN JAIL) DURING THE PAST YEAR. SHE IS CHARGED AS A MEMBER OF THE MASASU GROUP. HER LAWYER TOLD POLOFF THAT THE 2-YEAR-OLD, AIME, WAS CLUBBED BY GLM SOLDIERS AND SUFFERS FROM MENTAL PROBLEMS (HE IS REPORTEDLY TRAUMATIZED WHENEVER HE SEES A SOLDIER IN UNIFORM).

-- COLONEL EDDY KAPEND: KAPEND WAS PRESIDENT KABILA'S PERSONAL BODYGUARD AND AIDE-DE-CAMP. AFTER ALLEGEDLY KILLING RASHIDI, KAPEND WENT ON NATIONAL TV TO URGE THE POPULATION TO STAY CALM AND TO GIVE INSTRUCTIONS TO THE ARMY'S SENIOR LEADERSHIP TO MOVE TROOPS TO SECURE THE AIRPORT, ETC... KAPEND'S ALLEGED KILLING OF RASHIDI RATHER THAN TAKING HIM PRISONER, AND HIS "TAKE-OVER" BEHAVIOR AFTER LDK'S DEATH, HAS FED THE SPECULATION THAT KAPEND WAS IN COLLUSION WITH RASHIDI. KAPEND IS REPRESENTED BY SEVERAL LAWYERS. HE IS FACES MANY CHARGES, INCLUDING KILLING RASHIDI AND GIVING ORDERS TO HIS MILITARY SUPERIORS (REFERENCE TO HIS TV APPEARANCES AND OTHER INSTRUCTIONS). (NOTE: IT IS NOT CLEAR IF KAPEND IS CHARGED WITH TREASON BY REASON OF ATTEMPTING A COUP. GIVING ORDERS TO S SUPERIOR IS HARDLY A SERIOUS CRIMINAL ACT.)

-- GENERAL YAV NAWEJ: IN THE CONFUSION IMMEDIATELY AFTER THE ASSASSINATION, NAWEJ ALLEGEDLY ROUNDED UP AND EXECUTED 11 LEBANESE SUSPECTED OF INVOLVEMENT IN THE PLOT (THE CHARGES ALLEGE THAT HE DID THIS ON ORDERS FROM KAPEND). HE IS CHARGED WITH MURDERING THE LEBANESE AND WITH OBEYING ORDERS FROM KAPEND, A MORE JUNIOR OFFICER, PERHAPS AS A CO-CONSPIRATOR IN KAPEND'S ATTEMPTED COUP D'ETAT.

-- MAJOR KAMWANYA BORA, GEORGES MIRINDI, AND JOHN BAHATI: MIRINDI AND BAHATI WERE CLOSE ASSOCIATES AND ALLEGED CO-CONSPIRATORS OF RASHIDI (SEE REF B). MAJOR BORA WAS A CLOSE ASSOCIATE OF COMMANDANT MASASU. ALL THREE ESCAPED PRISON SOON AFTER THE ASSASSINATION AND ARE SAID TO BE IN BELGIUM. THE TWO WIVES OF MAJOR BORA, MASUMBUKO MWALI ANNE MARIE AND KAMUANYA BEYA ROSETTE, HAVE BEEN IN PRISON THIS LAST YEAR AND WERE CHARGED WITH FACILITATING THE ESCAPE OF BORA BY BRIBING GUARDS. (NOTE: POLOFF HAS HEARD REPORTS THAT MIRINDI'S AND/OR BAHATI'S WIVES MAY ALSO IN PRISON, BUT THEY ARE NOT DEFENDANTS IN THIS TRIAL.)

-- NELLY TWITE: TWITE WAS PRESIDENT KABILA'S PRIVATE SECRETARY, AND ALLEGEDLY LETA'S GIRLFRIEND. SHE IS CHARGED WITH FAILING TO INFORM THE PRESIDENT ABOUT THE SUBSTANCE OF AN ANR REPORT ON THREATS TO HIS SAFETY.

THE MASASU GROUP

15. (C) COMMANDANT ANSELME MASASU WAS CONVICTED OF COUP-PLOTTING AGAINST LAURENT KABILA AND EXECUTED ON NOVEMBER 24, 2000. BEFORE THEIR FALLING OUT, MASASU WAS A FOUNDER OF THE AFDL. MASASU WAS A MUSHI (SINGULAR - PLURAL FOR THE ETHNIC GROUP IS BASHI) FROM SOUTH KIVU. HE HAD A FOLLOWING IN THE ARMY AMONG THE BASHI AND THE "KADOGOS" (CHILD SOLDIERS) HE RECRUITED FROM SOUTH KIVU. AFTER HIS DEATH, HUNDREDS OF KADOGOS WERE EXECUTED OR ARRESTED, AND IT IS COMMONLY THOUGHT THAT LDK'S ASSASSINATION WAS REVENGE OR SIMPLY TO "FINISH THE JOB" MASASU ATTEMPTED UNSUCCESSFULLY (REF B). ON THE OTHER HAND, IT IS QUITE POSSIBLE THAT LDK'S ASSASSINS HAD DIFFERENT MOTIVES (REF C) AND LITTLE OR NO CONNECTION TO THE MASASU GROUP.

16. (C) THE DEFENDENTS INCLUDE TWO GROUPS THAT ARE CHARGED GENERALLY WITH BEING PART OF THE MASASU GROUP: 1) A "GROUP OF 19" WHO ARE BASHI AND WERE AGENTS OF ANR IN SOUTH KIVU, AND 2) 39 PERSONS (MOSTLY BASHI OR FROM OTHER SOUTH KIVU ETHNIC GROUPS) CHARGED VAGUELY WITH "CONNECTIONS TO GENERAL MASASU." RASHIDI'S WIDOW, LADY NABINTU, IS CHARGED WITH BEING IN GENERAL MASASU'S GROUP. (NOTE: SINCE SHE IS MUSHI, THIS IS A CONVENIENT CHARGE; THE COURT CANNOT LEGALLY HOLD HER SIMPLY BECAUSE SHE WAS MARRIED TO LDK'S ASSASSIN.)

17. (C) CURIOUSLY, JOSEPH KABILA ALLEGEDLY MAINTAINS CONTACT WITH THE MASASU FAMILY. POLOFF MET WITH PERE ITOLO, AN ITALIAN PRIEST AND LONG-TIME CONTACT OF THE ICRC. APPARENTLY

THE MASASU FAMILY HAS BEEN PART OF PERE ITOLO'S PARISH FOR YEARS, AND HE HAS BEEN CARING FOR THEM SINCE COMMANDANT MASASU'S EXECUTION. ITOLO TOLD POLOFF THAT JOSEPH KABILA AND CMDT MASASU FOUGHT IN THE AFDL SIDE-BY-SIDE AND BEEN CLOSE COMRADES; JOSEPH KABILA ALSO ALLEGEDLY HAD AN AFFAIR WITH MASASU'S SISTER. PERE ITOLO GAVE POLOFF A DOCUMENT DATED SEPTEMBER 17, 1998, SIGNED BY MAJOR GENERAL JOSEPH KABILA, GIVING THE MASASU FAMILY THE RIGHT TO OCCUPY A HOUSE IN KINSHASA THAT HAD BEEN SEIZED AS "BIENS MAL ACQUIS."

ACCORDING TO ITOLO, RELATIONS BETWEEN JOSEPH KABILA AND THE MASASU FAMILY CONTINUED EVEN AFTER COMMANDANT MASASU'S EXECUTION. ON JANUARY 8, 2002, THE MASASU FAMILY RECEIVED A LETTER FROM THE MINISTER OF INTERIOR GIVING THEM PERMISSION TO LEAVE KINSHASA AND RETURN TO BUKAVU (BY MONUC TRANSPORT). ODDLY, THIS LETTER (WHICH WAS DATED OCTOBER 2, 2001) ARRIVED TWO DAYS AFTER THE ARREST OF JUSTIN NINDAGA (THE BROTHER OF MASASU), WHO IS STILL BEING HELD. PERE ITOLO SAID THE FAMILY WILL NOT LEAVE KINSHASA WITHOUT NINDAGA. PERE ITOLO SAID MASASU'S MOTHER (CONSOLATE MUKUZO, AGED 51) DIED RECENTLY "OF A BROKEN HEART" AND THAT JOSEPH KABILA PRIVATELY SENT \$300 IN CASH TO HELP PAY FOR HER FUNERAL.

LETA - CHARGED WITH CONNECTION TO THE CIA

¶8. (C) IN ANOTHER ODD TWIST, FORMER CHIEF OF THE NATIONAL INTELLIGENCE AGENCY (ANR) LETA MANGASA WAS CHARGED WITH VARIOUS CRIMES INVOLVING THE CIA. THESE CHARGES HAVE SO FAR RECEIVED LITTLE ATTENTION IN THE CONGOLESE PRESS. THE SECTIONS OF THE CHARGES RELATING TO THE U.S. ARE QUOTED AS FOLLOWS:

LETA MANGASA IS CHARGED WITH ...

-- "HAVING DIRECTLY CAUSED THE ATTACK COMMITTED AGAINST THE LIFE OF THE HEAD OF STATE... NOTABLY BY REFRAINING FROM COMMUNICATING TO THE HEAD OF STATE AS PART OF HIS DUTIES... THE SYNTHESIS OF THE SECURITY SERVICE MEMOS RELATING TO THREATS OF ATTACKS AGAINST HIS LIFE, RECEIVED FROM THE CIA CHIEF OF STATION IN CENTRAL AFRICA RESIDING IN THE DRC."

-- "HAVING MAINTAINED INTELLIGENCE WITH A FOREIGN POWER OR WITH ITS AGENTS TO FAVOR DEEDS OF THE POWER AGAINST THE DRC. IN THIS CASE, IN KINSHASA, ...IN THE PERIOD BETWEEN JULY 2000 AND JANUARY 16, 2001, WHILE KNOWING THE ROLE PLAYED BY THE UNITED STATES OF AMERICA IN THE AGGRESSION BEFALLING THE DRC, MAINTAINED SECRET CONTACTS WITH THE CIA CHIEF OF STATION IN CENTRAL AFRICA RESIDING IN KINSHASA TO FAVOR UNDERTAKINGS OF THE POWER, NOTABLY SUPPORT TO REBEL FORCES AGAINST THE DRC."

HUMAN RIGHTS ASPECTS

¶9. (C) ON THE POSITIVE SIDE, THE TRIAL IS FINALLY GETTING UNDER WAY. IT IS OPEN TO THE PRESS AND OTHER OBSERVERS (LOCAL AND INTERNATIONAL). THE DEFENDANTS HAVE ACCESS TO LAWYERS AND THE CHARGES HAVE BEEN READ PUBLICLY.

¶10. (C) HOWEVER, THE TRIAL IS FRAUGHT WITH DUE PROCESS PROBLEMS. SEVERAL CIVILIANS ARE BEING TRIED IN THE MILITARY COURT SYSTEM (COM). MOST PRISONERS WERE HELD WITHOUT CHARGES IN HORRIBLE CONDITIONS AND WITHOUT ACCESS TO LAWYERS FOR OVER A YEAR. THE LAWYERS HAD ONLY TWO WEEKS TO PREPARE THEIR CASES. ONE OF EDDY KAPEND'S LAWYERS REPORTED THAT CONSULTATION OF HER CLIENT'S FILES MUST TAKE PLACE IN MILITARY PRESENCE AND UNDER THEIR CLOSE SCRUTINY. THE "GROUP CHARGES" AGAINST THOSE IN THE MASASU GROUP DO NOT AFFORD INDIVIDUALS THE OPPORTUNITY TO PROVE THEMSELVES INNOCENT. FINALLY, THERE IS A STRONG BELIEF IN KINSHASA THAT THESE DEFENDANTS WILL BE JUDGED BASED ON THEIR ETHNICITY.

¶11. (C) POLOFF RECENTLY SPOKE TO MINISTER OF HUMAN RIGHTS NTUMBA LUABA, URGING HIM TO SUPPORT A FAIR TRIAL AND LIVABLE CONDITIONS FOR THE PRISONERS, ESPECIALLY FOR THE WOMEN AND CHILDREN. NTUMBA TOLD POLOFF THAT THE WIVES OF KEY FIGURES FACE FORMAL CHARGES, SO HE WAS UNABLE TO ADVOCATE RELEASE. HE ADMITTED THAT MOST PEOPLE THINK THAT THEY ARE ONLY BEING HELD BECAUSE OF THEIR HUSBANDS' ACTIONS. HE SAID HE HAD

PERSONALLY VISITED EACH OF THE FOUR WOMEN AND THAT THEY WERE IN LIVABLE CONDITIONS (TWO ARE IN PAVILION 1 AND TWO ARE IN THE WOMEN'S SECTION OF MAKALA PRISON).

COMMENT

¶13. (C) POST WILL CONTINUE TO FOLLOW THE DEVELOPMENT OF THE LDK ASSASSINATION TRIAL, ESPECIALLY FROM A HUMAN RIGHTS ANGLE AND CONCERNING ANY ALLEGATIONS AGAINST THE U.S. POLOF IS ATTENDING THE APRIL 3 TRAIL OPENING AND WILL REPORT ON DEVELOPMENTS AS THE TRIAL PROGRESSES.

HOOKS